Single Bench

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.).

W.P.NO. 4243 /2005.

PETITIONER... **MUKUND MOHANI RAJ MANOHAR** Son of Shri MOHANI RAJ MANOHAR aged about 60 years, Jai Kiran Beej Bhandar, Anand Bhavan, Ganesh Ram Nagar, Raipur, Tahsil and District Raipur (C.G.)

P.R. No. 43791 05
Presented by Shri C.R. Sahu
dated 29/8/05

VERSUS.

RESPONDENT... **ANANT RAI MAJETHIA** aged about 63 years Son of Late Shri Durlabhji Majethia, resident of Civil Lines, Raipur, Tahsil and District Raipur (C.G.).

WRIT PETITION UNDER ARTICLE 227 OF CONSTITUTION OF INDIA.

NOTARY

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ....WP.NO.4243/05 **सन् 200**

(43)

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

9-9-2005

Heard Shri G. D. Vaswani, counsel for the petitioner.

The petitioner has preferred this writ petition under Article 227 of the Constitution of India questioning the legality, propriety and correctness of the order dated 10-8-2005 (Annexure-P/1) passed by the 5th Civil Judge, Class-2, Raipur, in civil suit No.01-A/05 whereby learned Civil Judge rejected the application filed by the petitioner herein under Order 8 Rule 1A (3) of the C.P.C.

Brief facts necessary for the disposal of this writ petition are that respondent herein filed a civil suit against the petitioner for eviction of the disputed premises on the ground that the disputed premises are required reasonably and bonafidely for starting business of the son of respondent. Written statement has already been filed on behalf of the defendant/petitioner herein. After framing of the issues, evidence of respondent has been closed and thereafter evidence of the petitioner herein has also commenced in which he has already adduced evidence of 2 witnesses and at this stage, the petitioner herein moved above application before the trial Court. The trial Court rejected the application on the ground that plaintiff has already closed his evidence and the petitioner herein has also adduced evidence of 2 witnesses, therefore, documents have been filed at a belated stage. It has also been observed that after perusal of the

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(44)

आदेश पत्रक (पूर्वानुबद्ध)

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documents the Court reached to the conclusion that these documents are not necessary for disposal of the suit. Moreover, there is no such pleading regarding the documents in written statement.

Having heard learned counsel for the petitioner, I have perused the petition and the impugned order.

Learned counsel for the petitioner has not disputed above facts. However, he submitted that two documents namely one of year 1988 is a notice which was sent by respondent herein for increasing the rent of the disputed premises and second document, year 1993, is the document whereby joint owners of the property of late Durlabhji Bai had filed civil suit, and by these documents the petitioner herein wants to establish that respondent is in the habit of increasing the rent and also that respondent alone is not entitled to file civil suit.

I do not find any substance in the argument advanced by learned counsel for the petitioner. As far as question of filing of suit by the respondent herein is concerned, the petitioner herein has already raised these objections. It is a legal question whether only respondent is entitled for filing of the suit or not. He can adduce evidence and establish this fact. Moreover, as far as second document is concerned that was sent as back as in the year 1988 i.e. around about 17 years back, therefore, that document has no much relevance.

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(45)

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
Barve	In view of the above fact, I am of the opinion that the trial Court has not committed any illegality or material irregularity by passing the impugned order. Therefore, no case is made out for invoking extraordinary jurisdiction under Article 227 of the Constitution of India. The writ petition has no substance, same is liable to be dismissed and it is accordingly, dismissed. Consequently, M.(W.)P. No.3462/2005 and I. A. No.7729/2005 stand disposed of. **Sd/-** **L.C. Bhadoo** **Judge**	

SD/FS/2005 - 20,000

16.9.05